

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JUSTYNA ZUBKO-VALVA, as Mother and
Natural Guardian of ANTHONY VALVA and
ANDREW VALVA, and as Administratrix of the
Estate of THOMAS VALVA, and JUSTYNA
ZUBKO-VALVA individually,

Plaintiff,

-against-

THE COUNTY OF SUFFOLK, CPS SENIOR
CASEWORKER MICHELE CLARK,
Individually and in her Official Capacity, CPS
SUPERVISOR EDWARD HEEPE, Individually
and in his Official Capacity, CPS ASSISTANT
DIRECTOR ROBERT LETO, Individually and
in his Official Capacity, CPS INVESTIGATOR
JENNIFER LANTZ, Individually and in her
Official Capacity CPS INVESTIGATOR
MELISSA ESTRADA, Individually and in her
Official Capacity, CPS INVESTIGATOR
LYDIA SABOSTO, Individually and in her
Official Capacity, CPS SUPERVISOR JEAN
MONTAGUE, Individually and in her Official
Capacity, DEPARTMENT OF SOCIAL
SERVICES COUNTY ATTORNEY RANDALL
RATJE, ESQ., Individually and in his Official
Capacity, ATTORNEY FOR CHILDREN
DONNA MCCABE, ESQ., Individually and in
her Official Capacity, THE LAW OFFICE OF
DONNA MCCABE, SHANA CURTI, ESQ.,
Individually and in her Official Capacity,
ORSETTI & CURTI PLLC, EAST MORICHES
UNION FREE SCHOOL DISTRICT,
PRINCIPAL EDWARD SCHNEYER,
Individually and in his Official Capacity,
SCHOOL SUPERINTENDENT CHARLES
RUSSO, Individually and in his Official
Capacity, HOPE SCHWARTZ ZIMMERMAN,
Individually, ATTORNEY FOR CHILDREN
ETHAN HALPERN, ESQ, Individually and in
his Official Capacity, THE LEGAL AID
SOCIETY of SUFFOLK COUNTY, INC.,
CHILDREN'S LAW BUREAU, MICHAEL
VALVA, and ANGELA POLLINA,
Defendants. COUNTY OF SUFFOLK, ET AL,

Defendants.

**DECLARATION IN
SUPPORT OF THE
SUFFOLK COUNTY
DEFENDANTS' MOTION
PURSUANT TO RULE
12(b)(6)**

CV 20-2663 (JMA)(ARL)

Brian C. Mitchell, an attorney, duly admitted to practice before this Court and the Courts of the State of New York, affirms as follows under penalty of perjury:

1. I am an Assistant County Attorney in the office of Dennis M. Cohen, Suffolk County Attorney, attorney for the County of Suffolk, Suffolk County Department of Social Services employees Michele Clark, Edward Heepe, Robert Leto, Jennifer Lantz, Melissa Estrada, Lydia Sabosto, Jean Montague and Assistant Suffolk County Attorney Randall Ratje, defendants in the above civil rights action pursuant to 42 U.S.C. § 1983. I submit this declaration in support of the County's motion pursuant to Fed.R.Civ.P. Rule 12(b)(6) for an order dismissing the complaint for failing to state a claim.

2. It is respectfully submitted that based upon the case law and legal principals set forth the in attached Memorandum of Law, which is incorporated by reference, the County defendants motion should be granted.

3. In support of its motion, the County attaches the following exhibits and evidence, which your affirmant declares are true and accurate copies of the original exhibits and evidence:

Exhibit A: Suffolk County Family Court Records relating to the Neglect and Abuse Proceedings against Justyna Zubko-Valva under Docket Numbers NN-767-18, NN-768-18 and NN-769-18; and Suffolk County Family Court Records relating to the Neglect and Abuse Proceedings against Michael Valva under Docket Numbers NN-771-18, NN-772-18 and NN- 773-18;

Exhibit B: Priority Mail Envelope and Notice of Claim served by plaintiff Justyna Zubko-Valva.

WHEREFORE, the defendants respectfully request that the Court grant this motion pursuant to F.R.C.P. Rule 12(b)(6) dismissing the complaint for failure to state a claim.

Dated: Hauppauge, New York
December 18, 2020

Brian C. Mitchell
Brian C. Mitchell
Assistant County Attorney